Understanding Personal Directives

Office of the Public Guardian

Alberta

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Introduction

If something happened and you were unable to make decisions, who would make decisions about your medical care? Who would decide where you should live? Who would make your day-to-day personal decisions in a way that reflects your values and beliefs?

You might assume that your spouse or a close family member or friend could make decisions on your behalf, but this is a common misconception.

The law in Alberta does not allow another person to automatically make decisions for you; not even your spouse or adult interdependent partner.

That is why it is important to plan for the future now and put your wishes in writing.

What is a personal directive?

A personal directive is a legal document, under the *Personal Directives Act*, that allows you to name the person(s) you trust to make decisions on your behalf should you lose mental capacity and list the areas in which they have decision-making authority (e.g., health care, residential issues). You can include instructions that you want followed (e.g., refuse blood products), as long as it does not include anything illegal, such as assisted suicide or euthanasia. You can also outline your wishes about other important personal matters like the temporary care and education of children under age 18.

The need for a personal directive may be short-term, such as when a serious illness leaves you unable to make decisions for a few days. However, in the event of serious brain injury or a progressive condition like Alzheimer's Disease, a personal directive may be required for the remainder of your life.

In Alberta, writing a personal directive is a choice. You are not required to have one and it is voluntary.

Personal directives are not just for seniors. Anyone over the age of 18 can and should write a personal directive. It is a relatively simple document that you can write yourself.

Planning for your future is one of the best investments you can make – for you and your family. It is a gift of love to everyone involved and reduces the burden of uncertainty during a time of crisis.

Is a personal directive as important as a Will?

Most people are aware of how important it is to have a Will, but did you realize that it's just as important to write a personal directive?

Unlike a Will, which takes effect after you die, a personal directive guides personal decisions that are made on your behalf while you are still living – when you can no longer make decisions on your own.

These decisions can dramatically affect your quality of life, such as where you live, how you spend your day and who takes care of your minor children.

Is a personal directive broader than a Living Will?

Sometimes personal directives are confused with Living Wills, which provide instructions regarding end-of-life decisions, such as whether you wish to be resuscitated.

While the *Personal Directives Act* does not use the term "Living Will"; a Living Will, provided it meets the legal requirements in the Act, is a personal directive that addresses one specific issue only: end-of-life decisions. It is important to remember that many decisions may need to be made should you lose the ability to make your own decisions.

It is not necessary to have a Living Will and a personal directive; you can include instructions regarding end-of-life decisions in your personal directive. However, unlike a Living Will, a personal directive also lets you name someone who can make any personal decisions on your behalf.

With a personal directive, you are not just leaving instructions regarding your death – you are creating instructions regarding your life!

What if I do not have a personal directive?

If you do not have a personal directive and you lose the ability to make decisions, a family member or friend can apply to the Court to become your legal guardian. However, the application process can be lengthy and expensive, leaving you with no one to make decisions on your behalf until a Court Order is granted.

If a family member or friend is not willing or able to be your guardian, the Office of the Public Guardian can, as a last resort, apply to the Court to be your guardian.

A time when you cannot make decisions

How do I plan ahead?

No one likes to think about it, but when you state your wishes in a format that is legally recognized, you gain some control over your future. You also ease the stress of those who are closest to you if and when these documents are needed.

If you wish to plan in advance, you may want to:

- write a personal directive (for non-financial matters);
- write an enduring power of attorney (for financial matters); and
- write a Will (to plan for the disposition of financial and personal assets after death).

Similar to the other documents listed, writing a personal directive is a choice; you are not required by law to have one.

If you choose not to prepare these documents in advance and you can no longer make decisions, the Court will:

- appoint a guardian for non-financial matters; and
- appoint a trustee for financial matters.

If you die without a Will, the Court will disperse your financial and personal assets according to the *Intestate Succession Act*. Your estate will go to your relatives. If the Court is unable to find relatives, the estate will go to the Province, which pays the income to Alberta universities.

	Decisions made by you...	Decisions made by the Court...
	... while you are alive	
Personal decisions	**Personal Directive:** Agent	*** Guardianship:** Guardian
Financial decisions	**Enduring Power of Attorney:** Attorney	*** Trusteeship:** Trustee
	... after death	
Financial assets	**Will:** Executor	**Intestate Succession Act:** Administrator

* The Court would only award guardianship or trusteeship if a person was incapable, and had not written a personal directive or an enduring power of attorney.

Writing your Personal Directive

Who can make a personal directive?

Any Albertan 18 years of age or older may make a personal directive if they understand what it means to have a personal directive.

A person may have a cognitive disability but still have the capacity to write a personal directive. It is presumed that everyone has the capacity to make a personal directive, unless they have been declared incapable under the *Personal Directives Act* or *Dependent Adults Act*.

Is there a format I have to follow?

A personal directive is easy to write. You can download a standard form from **www.seniors.gov.ab.ca/opg** or call the office of the Public Guardian toll free at **1-877-427-4525** to request that a form be mailed to you. You don't have to use the standard form but it's a helpful tool.

You do not have to follow a specific format when writing a personal directive in Alberta.

To be considered a legal document, the requirements are that your personal directive must be:

- in writing (by hand, typed or by computer);
- dated;
- signed by you (in the presence of a witness). If you are physically unable to sign the directive, another person must sign on your behalf in the presence of a witness; and
- signed by a witness (in your presence).

The following persons may **not** witness the signing of a personal directive:

- any person you have selected to make decisions on your behalf – called your "agent";
- the spouse or adult interdependent partner of your agent;
- your spouse or adult interdependent partner; and
- the person who signs the directive on your behalf, if you are physically unable, or their spouse or adult interdependent partner.

Although it is not a legal requirement to do so, it is a very good idea to give a copy of the directive to your agent, physician and to other service providers with whom you are involved (e.g., the director of the nursing home where you live).

Do I need a lawyer?

It is not necessary to use a lawyer to write a personal directive. However, you may wish to consult a lawyer, your family physician, pastor or any other person who you feel would help you make your instructions clear.

If you have questions as you prepare to write your personal directive, please call the Office of the Public Guardian at **1-877-427-4525**.

What should I include in my personal directive?

Your personal directive can designate your agent(s) and their areas of authority (e.g., your daughter makes decisions regarding health care and your spouse decides where you will live). Your directive can also contain instructions regarding personal, non-financial matters.

However, you need to provide for some flexibility in these instructions to allow for changes in technology or in your circumstances. For instance, the names of medications, types of treatments or equipment used may change over time.

Your instructions guide big decisions about issues that are important to you, like medical treatments you would or would not want.

You may also indicate who you want to temporarily care for and educate your minor children if you are no longer capable of doing so, or who should be reviewing the decision of your agents.

Practical Considerations

You may want to include:

- a title that indicates the document is a personal directive;
- your name;
- the name(s) of the person(s) you choose to make decisions on your behalf. This person(s) is called your "agent";
- the areas of decision-making authority your agent will have (see page 12); and
- any specific instructions you may have regarding:
  - » how the agent makes decisions (e.g., they consult with other family members);
  - » who should make a determination about your capacity;
  - » whom to notify when you can no longer make decisions and when the directive takes effect;
  - » if you want to restrict access to personal information from family or others; and
  - » whether you want your agent to be paid for carrying out their duties and/or reimbursed for any related expenses they incur.

You must include a place for the date, your signature and the witness' signature at the bottom of the document. It is a good idea to ask your witness to also print their name because a signature is often not easy to read.

Choosing someone to make decisions on your behalf – your "agent"

Who should I name as my agent?

An agent is the person you name in your personal directive to make personal decisions on your behalf.

An agent must:

- be 18 years of age or older at the time the personal directive takes effect; and
- have the mental capacity to make decisions on your behalf.

It is a good idea to ask them directly if they are willing to assume this responsibility in the future, if required.

You should choose someone you trust to be your agent – not necessarily a family member whom has traditionally assumed this role. Your agent will make decisions on your behalf that are highly sensitive, so choose someone who understands your values and beliefs and who will act in your best interests.

You may have confidence in your physician, the head of the nursing home in which you live or another service provider. However, naming these people as your agent should be considered carefully. By naming service providers, you may place them in a position of conflict of interest. This may be unfair to both you and the person named.

Before writing your legal document remember to first ask your proposed agent(s) if they wish to be named, and discuss your values and beliefs with them. When your agent(s) have agreed to act on your behalf, it is a good idea to give them a copy of your personal directive. You can have peace of mind knowing that your agent can provide your legal document to a service provider quickly and be able to clarify the instructions in it.

Can I appoint more than one person as my agent?

You can appoint more than one person as your agent. Here are some options:

- you can name a primary agent and one or more alternate agents. An alternate agent makes decisions on your behalf only if the primary agent is unwilling or unable. If you have more than one alternate agent, they act in the order in which they are named in the personal directive. To avoid confusion be very clear about the ranking of your agent (i.e., Primary agent, first alternate agent...);
- you may appoint agents jointly, each having equal authority. This means they must consult with each other and agree upon decisions; and
- you may appoint different agents for different areas of authority. For example, you could name your sibling as an agent with authority to make health care decisions, and you could name your spouse with authority to make all other personal decisions.

What if I do not have friends or family who can be my agent?

If you do not have family or friends who are willing and able to be your agent:

- you may appoint someone by office or position (e.g., the executive director of an association) as your agent, without providing a specific name, as long as the office or position is not providing a service to you;
- if the office or position is providing a service to you, you can appoint your service provider if you provide their given name. For example, if you are a resident at a nursing home, you can appoint "Jane Doe," who is the executive director. You cannot appoint "the executive director;" and
- as a last resort, if there is no one else able and willing, you can ask the Public Guardian to act as your sole agent. You must consult with the Public Guardian, and the Public Guardian must agree to act as your sole agent. You also need to provide the Public Guardian with a copy of your personal directive and any updates that follow. The Public Guardian may also request information about your personal directive at other times, as necessary. For more information, please call the Office of the Public Guardian nearest you (offices are listed at the end of this booklet) or call the Office of the Public Guardian toll-free at **1-877-427-4525**.

Do I have to name an agent?

You do not have to name an agent in your personal directive. In this situation, the personal directive should contain specific instructions to help guide decisions made on your behalf. For example, if you do not want to have blood transfusions, you would write this in your personal directive so health care providers are clear about your wishes.

There is real value in naming an agent – someone you trust – who can make decisions in situations you did not anticipate.

Can a person refuse to be my agent?

The person you name as your agent can refuse this responsibility at any time. That is why it is important to ask them directly if they are able and willing to act before you name them in your personal directive.

You should also discuss your wishes, values and beliefs with your agent so they know what you want, and they can decide if they are prepared to accept this responsibility.

For example, if you have children who are minors, you should discuss your wishes for the temporary care and education of your children with your agent.

If the person you named as your agent refuses to assume this role or refuses to make a specific decision, an alternate agent named in your personal directive may act.

If you have not named an alternate agent:

- service providers, such as physicians, lawyers and other health care professionals, can follow any clear instructions in the personal directive relevant to the circumstance;
- if no instructions are available, the service provider must inform the nearest relative, legal representative (e.g., attorney or trustee) or the Office of the Public Guardian, in that order;
- in a medical emergency, a health care practitioner can provide medical services without consent. However, the health care practitioner must inform either the nearest relative or legal representative as soon as possible. If these people cannot be reached, the Office of the Public Guardian must be contacted; and
- family or friends or the Public Guardian, as a last resort, may apply to the Court to become your legal guardian when there is no agent at all who is willing and able to act on your behalf.

What if I name more than one agent, and they do not agree on a decision?

If you appoint more than one agent with equal authority in the same areas (joint agents), be very clear how any disagreement between your joint agents should be resolved. If the directive does not provide instructions about how to resolve disagreements, the *Personal Directives Act* states that majority rules – the decision favoured by the majority of your agents must be followed.

If no majority can be reached, the agents may wish to discuss the situation with friends and family members or hire a neutral third party to mediate the dispute. The Office of the Public Guardian also offers limited conflict resolution services. Finally, the agents may seek direction from the Court.

Decisions about who will communicate decisions can sometimes be a tricky area, too. When agents are named jointly and they are unable to agree on who will communicate decisions (e.g., inform the doctor about what has been decided), the agent listed first in your personal directive is authorized to communicate decisions, unless you state otherwise.

Are agents paid?

An agent can be reimbursed for the costs of being an agent, but only if you state this in your personal directive.

Can agents live outside Alberta?

There are no restrictions on where the agent may live. However, it is important to consider the practical aspects of naming someone who lives far away from you, such as how they will consult with you prior to making a decision.

Can my agent access my personal information?

Unless you state otherwise, the agent has the right to access personal information and records relevant to the decision being made. It is important for an agent to be properly informed, and able to access your personal information and relevant records, before they make a decision.

What are the duties of an agent?

An agent must:

- consult with you before making decisions to ensure that you contribute to the extent that you are able. The intent is to give you as much input into your own decisions as possible;
- make personal decisions on your behalf in accordance with your clear instruction provided;
- when your personal directive does not contain clear instructions, the agent must make decisions that the agent believes you would have made in the circumstances, based on your agent's knowledge of your wishes, beliefs and values;
- if your agent does not know what your wishes, beliefs and values are, then a decision can be made that the agent believes to be in your best interest; and
- keep a record of all personal decisions made on your behalf. The agent must keep this record for the full time they have decision-making authority and for two years after their authority ceases. They may be asked to provide this record to you, your lawyer or legal representative, or any other agent who also has the same authority.

When do the duties of an agent begin?

Your agent has no legal authority to make decisions on your behalf until you have been declared incapable of making decisions and the personal directive has been activated for a specific area(s) of authority (i.e., ability to make health care decisions and residential decisions) or for all personal matters. This means the proper forms have been signed saying you are incapable of making decisions in a specific area, such as health care or accommodation.

Your agent does not have any authority under the Act to make personal decisions on your behalf until the personal directive has been activated.

When do the duties of an agent end?

The responsibility of an agent ends when:

- you regain the capacity to make your own decisions;
- your personal directive includes a date or circumstance in which your directive is to be revoked or changed (e.g., you state in your directive that if you divorce, your spouse is no longer your agent);
- the Court determines the personal directive is no longer in effect or revokes the authority of the agent;
- your agent no longer wishes or is able to be an agent and resigns in writing; or
- you die.

How does an agent make decisions?

When an agent(s) makes a decision on your behalf, they have five responsibilities:

- confirm the personal directive is in effect;
- consult with you to ensure you are unable to give valid consent for this decision;
- follow any clear instructions provided in the personal directive;
- if no clear instructions are relevant to the situation, the decision must be what you would want, based on knowledge of your wishes, beliefs and values; and
- if the agent does not know your wishes, beliefs or values, a decision should be based on what is in your best interests.

Will the actions of my agent ever be reviewed?

It is important to make the agent accountable for decisions made on your behalf. You can write a specific instruction in your personal directive which outlines who is entitled to review the decisions of your agent. Whether or not you provide instructions about reviewing the decisions of your agent, anyone can make a written complaint about the actions of an agent to the Office of the Public Guardian if:

- the personal directive is in effect;
- there are serious concerns that the agent is not complying with the directive or with their duties; and
- the agent's action or inaction is likely to cause harm to the physical or mental health of the maker.

Complaints will be screened and an investigation will be conducted if the situation warrants.

Alternatively, someone can apply to the Court to have the situation reviewed.

Is my agent liable?

If your agent acts in good faith while carrying out their authority, they are not considered liable for their decisions. However, if an agent wilfully destroys, conceals or alters a personal directive or a document revoking the personal directive, they can be prosecuted.

Is there anyone to help agents in making decisions?

Agents are encouraged to consult with people who are knowledgeable in the area of concern, as well as those who may be affected by the decision, such as family and friends. The Office of the Public Guardian can also be a resource to provide information to agents. Offices are listed at the end of this booklet.

Areas of decision making authority

What kind of decisions can an agent make?

An agent can make decisions that are personal in nature and not related to financial matters. Making decisions means giving consent, refusing to give consent or withdrawing consent.

A personal matter is defined in the *Personal Directives Act* as being anything of a non-financial nature including:

- health care;
- accommodation;
- with whom the person may live and associate;
- participation in social, educational and employment activities;
- non-financial legal matters such as providing consent for the release of medical information; and
- any other personal matter.

Can I limit my agent's authority?

You have several options when deciding what authority to give your agent.

You can give your agent broad authority to make decisions for you, so they are able to handle any circumstances that arise. If you do not specifically list areas of authority for your agent, it is assumed that they have authority in all personal, non-financial areas. It is important that you explain your wishes, beliefs and values so they know and understand what you would want. Give them a copy of the directive so they can understand in advance what their responsibilities are.

Alternatively, you can limit the agent's authority to specific areas. Although it is possible to limit the authority of your agent, it is important to be aware of the possible consequences. Alternatively, you can limit the agent's authority to specific areas. Although it is possible to limit the authority of your agent, it is important to be aware that this means someone else may need to make certain decisions. For example, if you do not name an agent for non-financial matters, such as where you will live, and you lose mental capacity, the Court would appoint a guardian to make decisions in that area.

You may also name different agents with different areas of authority. For example, you could name your brother as agent with authority to temporarily care for and educate your children and give your sister authority to make all other personal decisions.

Are there any restrictions on an agent's decisions?

Even if there are instructions in the personal directive, the agent must not make decisions that are illegal (e.g., euthanasia or assisted suicide.)

Unless the personal directive provides clear instructions, the agent may not make decisions in the following areas:

- psychosurgery as defined in the *Mental Health Act*;
- sterilization that is not medically necessary to protect the person's health;
- removal of tissue for implantation in the body of another person or for medical education or research purposes; or
- participation in research or experimental activities if there is little or no potential benefit to the person.

When does a personal directive come into effect?

Your agent has no authority to make decisions until a determination of capacity has been completed. There are two ways in which that can happen:

You can name a person in your directive to assess your capacity. This person must consult with a physician or psychologist and complete a prescribed form. For instance you could name your agent to assess your capacity. In this instance, although your agent may not have any medical background, your agent may be well positioned to see you on a day-to-day basis and to note that you are becoming very confused or vulnerable to other people.

If no one is named in the directive to assess capacity or the person named is unwilling or unable to carry out this task, two service providers, at least one of whom is a physician or psychologist, must do a capacity assessment and make a written declaration that the maker lacks capacity. The written record must be kept by the physician or psychologist.

A copy of the Declaration of Incapacity must be given to you, your agent and any other persons named in the directive. The agent must inform the nearest relative and legal representative (e.g., attorney) that the personal directive is in effect. See Guide to Capacity Assessment under the *Personal Directive Act* online at **www.seniors.gov.ab.ca/opg**

Can I regain the right to make my own decisions?

Yes. Just as it is possible to regain the capacity to make decisions, it is possible to regain your right to make those decisions. For example, you could recover from an accident or an illness that left you in a coma.

There are several scenarios, depending on who makes the request to have you assessed:

- you can request to have your capacity reassessed. However, your agent or service provider may refuse the request if they do not feel there has been a significant change in your capacity to make personal decisions;
- if your agent believes there has been a significant change in your capacity, they must consult with a service provider who provides health care services to you. The service provider must reassess your capacity in accordance with the regulations. When they agree with the opinion of the agent, both will sign a Determination of Regained Capacity form; and
- if a service provider who provides health care services to you believes there has been a significant change in your capacity, the service provider must consult with your agent and reassess your capacity in accordance with the regulations. When the service provider and the agent agree that you have regained capacity they will sign a Determination of Regained Capacity. If there is a dispute, then there must be a full assessment of capacity by two service providers, one of whom must be a physician or psychologist.

Information Card

You can make a card like this one and carry it with you, in case of an emergency.

You can also order a card by phoning the Office of the Public Guardian at 1-877-427-4525

Personal Directive Information Card

I, _____

have made a personal directive that expresses my wishes regarding health care and personal matters.

_____

Signature Date

In case of emergency, the following people have a copy of my personal directive:

Name(s) Telephone

_____

_____

_____

_____

Frequently Asked Questions

What if I want to change my personal directive?

As long as your personal directive is not yet in effect, you can revoke your personal directive and write a new one. Your new personal directive should state that you revoke the old one(s). It is a good idea to destroy the old directive so it is not mistaken for your new directive. Always give your agent(s) an up-to-date copy.

If you have named the Public Guardian as your sole agent, make sure that you give the Public Guardian a copy of your new directive.

Can I have more than one personal directive at a time?

Although it is unusual, some people have more than one personal directive. For example, you could write one personal directive that names your friend as an agent with authority to make decisions in one specific area. In a separate document, you could write a specific instruction about residential preferences if you are no longer able to stay in your own home. However, it is generally better to outline your wishes in one personal directive to avoid confusion.

Do I have to register my personal directive?

Registering your personal directive is easy, free and it is your choice – registration is optional in Alberta.

It is a good idea to register your personal directive because it makes it easier for your doctor and other authorized health care providers to confirm that you have a personal directive and to contact the person you have asked to make decisions on your behalf.

The Registry asks for personal information including:

- date you wrote the personal directive;
- contact information for your agent(s);
- your contact information; and
- if you have more than one agent, their order of priority.

The Registry does not keep a copy of your personal directive. Please do not send your personal directive to the Registry.

The information you provide is confidential, according to the *Freedom of Information and Protection of Privacy Act* and the *Health Information Act*. Only approved service providers will be able to access your information.

It is your and your agents' responsibility to contact the Office of the Public Guardian to update information on the registry when any changes occur. You can register and obtain additional information by going to **www.seniors.alberta.ca/opg/registry** or by calling the Office of the Public Guardian toll-free at **1-877-427-4525**

How long is a personal directive valid?

Unless you state otherwise in the document, your personal directive is valid until you revoke it and write a new one, or you die.

The Court can also review the personal directive and determine its validity or revoke the authority of the agent.

You may want to review your personal directive periodically to ensure it still meets your needs.

Who should I advise about my personal directive?

It is a good idea to tell people close to you that you have a personal directive and where it is located.

You should always ensure your agent(s) has an up-to-date copy, and you may also want to give a copy to your health care providers (e.g., family physician), family members, lawyer or spiritual advisor.

You can register your personal directive with the Office of the Public Guardian. This will ensure your agent(s) can be located in the event of an emergency. Registration is voluntary.

You may also wish to carry a wallet card that indicates you have a personal directive and lists the names and contact information of your agent(s).

What happens in a medical emergency if my agent is not available?

In a medical emergency, a health care practitioner can provide medical services without the consent of the agent(s) named in a personal directive.

If this happens, the health care practitioner must inform the agent(s) of the circumstances as soon as possible. If no agent has been appointed, then the nearest relative or legal representative must be informed of the circumstances. If there is no nearest relative, or legal representative, then the Office of the Public Guardian must be contacted.

Who owns a personal directive?

A personal directive is always the property of the maker – the person who wrote it.

You should give a copy to your agent(s) so they can easily access it in case of emergency. Depending on your instructions, all or parts of the personal directive may be shared with service providers involved in your care.

Can service providers require me to have a personal directive?

No. Under the *Personal Directives Act* it is an offence for a service provider (e.g., a continuing care centre) to require you to have a personal directive as a condition of obtaining residence or continuing as a resident. A person found guilty of this offence is liable to pay a fine of up to $10,000.

What happens if someone, without my consent, wilfully conceals, destroys, or alters the personal directive?

According to the Act, it is an offence to do any of these things. A fine could be imposed of up to $10,000.

Is a photocopy of the personal directive valid?

Yes, a photocopy is just as valid as the original. If the original is changed, copies of the old personal directive should be destroyed to avoid confusion.

Are personal directives from another province or country valid in Alberta?

If the personal directive from outside Alberta meets the criteria of the *Personal Directives Act* (it is written, signed, dated and witnessed appropriately), it does not matter where it was written.

If someone asks me for help writing a personal directive, what should I do?

When helping someone write a personal directive, be careful not to unduly influence them to include specific instructions.

You may also suggest they consult a lawyer, physician or someone they trust to ensure their instructions are clear and the document has the legal effect he or she intends.

You can download a personal directive form at **www.seniors.gov.ab.ca/opg** or call the Office of the Public Guardian toll-free at **1-877-427-4525** to request that a form be mailed to you.

Other resources available for people planning a personal directive includes:

- educational materials in print, CD and DVD formats are available from the Office of the Public Guardian. You can order them online or call **1-877-427-4525** toll-free. Some materials are available in other languages (e.g., French, Chinese, German, Spanish, Punjabi, Cree, Blackfoot and Dene Tha); or
- organizations, such as regional health authorities and seniors groups, may have individuals to advise people about how to write personal directives.

What is an enduring power of attorney?

An enduring power of attorney is a legal document that allows you (the donor) to designate someone (an attorney) to make decisions about financial matters or property on your behalf while you are alive but are incapable of making these decisions.

An enduring power of attorney is a separate legal document with separate requirements. It cannot be included as part of your personal directive.

Although in Alberta a lawyer is not required to write an enduring power of attorney, it is a good idea to consult with a lawyer when you write your enduring power of attorney.

Definitions

The Act: the *Personal Directives Act*, which came into effect in 1997 and was amended in 2008.

Agent: a person named in your personal directive to whom you have given decision-making authority.

Capacity: the ability to understand information relevant to making a personal decision and the ability to appreciate the reasonably foreseeable consequences of the decision.

Maker: a person who writes a personal directive.

Nearest relative: the person who would receive notification when a personal directive comes into effect. The *Personal Directives Act* lists who would be contacted first, including:

a. husband or wife;

b. son or daughter;

c. father or mother;

d. brother or sister;

e. grandfather or grandmother;

f. grandson or granddaughter;

g. uncle or aunt; or

h. nephew or niece.

Personal directive: a legal document made in accordance with the *Personal Directives Act*.

Personal matter: anything of a non-financial nature that includes:

a. health care;

b. accommodation;

c. with whom the person may live and associate;

d. participation in social, educational and employment activities;

e. legal matters; or

f. any other matter prescribed by the Regulations of the *Personal Directives Act*.

Personal service: a service, such as health care or employment counselling, that is personal and non-financial in nature.

Public Guardian: a representative of the Government of Alberta, employed by the Office of the Public Guardian, who has authority to make decisions on behalf of others, as appointed by the Court.

Psychosurgery: any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or that inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behavior or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat intractable physical pain or epilepsy where those conditions are clearly demonstrable.

Service provider: a person who is employed to provide or who carries on a business or profession that provides a personal service to an individual. The individual must make a decision before the service is provided.

Significant change: an observable and sustainable improvement in a maker's condition that does not appear to be temporary.

Spouse: an adult's married or an adult interdependent partner under Alberta law.

Where can I get more information?

Website

www.seniors.gov.ab.ca/opg

The Seniors and Community Supports website includes publications in several languages that you can read online or print. You can also listen to the audio version.

Telephone

Office of the Public Guardian:
1-877-427-4525 (toll-free)

Staff with the Office of the Public Guardian can answer your questions about personal directives and provide details about information sessions being held in your area.

Law Society of Alberta's Lawyer Referral Service: **1-800-661-1095**

You do not need a lawyer to write a personal directive. However, if you want to seek legal advice and do not know a lawyer, the Law Society will provide you with the names of three lawyers. There is no charge for the first half-hour interview, after which you can decide whether or not to engage the lawyer at the full fee rates, and the lawyer can decide whether to accept the engagement.

Visit

The Office of the Public Guardian has offices across the province. They are open Monday to Friday from 8:15 a.m. to 4:30 p.m.

Grande Prairie	Ph. 780-833-4319
St. Paul	Ph. 780-645-6278
Edmonton	Ph. 780-427-0017
Red Deer	Ph. 403-340-5165
Calgary	Ph. 403-297-3364
Lethbridge	Ph. 403-381-5648
Medicine Hat	Ph. 403-529-3744

For a copy of the *Personal Directives Act* or Personal Directives Regulations, please contact the Queen's Printer Bookstore. In Edmonton, call **780-427-4952**. In Calgary, call **403-297-6251**. For toll-free service in Alberta, dial **310-0000**. You can read legislation online at **www.qp.gov.ab.ca**

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Alberta